

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
D. Shilliday, et al.) Group Art Unit: 3641
Serial No.: 10/560,022) Examiner: J. Bergin
Filed: August 17, 2006)
For: DISTRIBUTED CHARGE)
INFLATION SYSTEM)

February 22, 2011
Attorney Docket No. 53982/323801

I hereby certify that this correspondence is being transmitted to
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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**RESPONSE TO AND REQUEST FOR WITHDRAWAL OF IMPROPER
NOTICE OF NON-COMPLIANT AMENDMENT**

Dear Sir:

This paper is submitted in response to the "Notice of Non-Compliant Amendment" (the "Notice") mailed February 3, 2011 in connection with the above-identified application. According to the Examiner, Applicants' "Response to Election-of-Species Requirement" of November 12, 2010 (the "Response") supposedly "is not fully responsive to the prior Office Action" because Applicants "have not formally indicated whether the election of species B is being made with traverse or without traverse." **No** such formal indication is required when response is made without traverse, however, causing Applicants to request that the Notice be withdrawn as improper.

Indeed, the Manual of Patent Examining Procedure *expressly confirms* the correctness of Applicants' Response. As noted in Section 818.03:

Election in reply to a requirement may be made either with or without an accompanying traverse of the requirement.

(Emphasis added.) Applicants elected in precisely this manner--“without an accompanying traverse of the requirement”--exactly as authorized by the M.P.E.P.

Informative is that the Examiner cites *no authority whatsoever* for his contention that Applicants must “formal[ly] indicat[e]” that they are *not* traversing the election requirement. This is because no such authority exists. Moreover, the Office Action requiring the election *itself* makes clear that “If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election *shall* be treated as an election without traverse.” Why the Examiner failed to follow his own mandate is unknown; clear, however, is that the Response was entirely appropriate. Because Applicants did not (and do not) traverse the election requirement, Applicants reiterate their request that the improper Notice be withdrawn.

Conclusion

Applicants request that the Examiner allow claims 16-24 and that a patent containing these claims issue in due course.

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Respectfully submitted,


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